

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JUAN MARTINEZ, JOSE PIMENTAL, CARLOS
CONTRERAS, EFRAIN REYES and JOWANY
CASTILLO,

Plaintiffs,

Case No. 21-cv-
03613(GRB)(JMW)

- *against* -

FELIKS & SON STORAGE TANK CORP., FELIKS &
SON SERVICES, LLC AND FELIKS SWIERZEWSKI,

Defendants.

**DECLARATION OF STEVEN J. MOSER IN SUPPORT OF PLAINTIFFS' MOTION
FOR DEFAULT JUDGMENT**

Steven John Moser declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct.

1. I am the attorney for the Plaintiffs in this action.
2. I am admitted to practice before this Court.
3. I submit this declaration in support of Plaintiffs' motion for Default Judgment.
4. This action was commenced on June 28, 2021 against Feliks & Son Storage Tank Corp., Feliks & Son Services, LLC and Feliks Swierzewski, recover damages for violations of the Fair Labor Standards Act (FLSA), the New York Labor Law (NYLL) and its implementing regulations.¹

5. Feliks & Son Storage Tank Corp. and Feliks & Son Services, LLC ("the corporate defendants") were served with the summons and complaint on August 2, 2021 and September

¹ The Complaint is annexed hereto as Exhibit 1.

10, 2021, respectively. Despite diligent efforts, Plaintiffs were unable to serve Feliks Swierzewski.²

6. The corporate defendants neither answered nor otherwise moved with regard to the complaint. On Plaintiff's request, the Clerk noted the Default of the corporate defendants pursuant to Rule 55(a) on January 14, 2022.³ Following several adjournments at Plaintiff's request, the Court granted a final adjournment to May 20, 2022 to file this motion for a default judgment.

7. By this motion, Plaintiff seeks judgment as follows:

	Overtime	Liquidated Damages	Statutory Dgs (NYLL 195-1 & 195-3)	Interest (CPLR)	Total
Carlos Contreras	\$ 31,249.52	\$ 31,249.52	\$ 10,000.00	\$ 9,418.81	\$ 81,917.86
Juan Martinez Efrain Reyes	\$ 61,970.95	\$ 61,970.95	\$ 5,000.00	\$ 23,385.91	\$ 152,327.81
Jose Pimental Jowany Castillo	\$ 49,133.10	\$ 49,133.10	\$ 5,000.00	\$ 16,579.35	\$ 119,845.55
Subtotal	\$ 18,847.62	\$ 18,847.62	\$ 10,000.00	\$ 5,384.25	\$ 53,079.48
	\$ 10,872.86	\$ 10,872.86	\$ 10,000.00	\$ 2,646.67	\$ 34,392.39
	\$ 172,074.05	\$ 172,074.05	\$ 40,000.00	\$ 57,415.00	\$ 441,563.09
Attorneys' Fees					\$ 16,670.00
Costs					\$ 857.00
TOTAL					\$ 459,090.09

² Although the judgment in this case will be solely against the corporate defendants, New York Business Corporation Law § 630 provides a mechanism for enforcement of a judgment for wages against the top 10 shareholders. New York Limited Liability Company Law § 609(c) also provides a mechanism for enforcement of a judgment for wages against the 10 largest owners of a limited liability company. Plaintiffs have furnished notice of the intent

³ The Certificate of Default is Annexed hereto as Exhibit 2.

8. Annexed hereto as Exhibit 3 are spreadsheets which I personally prepared setting forth the computation of Plaintiff's damages.⁴

9. Annexed hereto as Exhibit 4 is a statement showing detailed contemporaneous time records and expenses incurred.

Basis for Attorney Hourly Fee Request

10. The attorneys' fees requested are based upon an hourly rate of \$500.00 per hour for my hours expended on the case, and \$100 for paralegal hours expended.

11. I graduated from Fordham University School of Law in 1997 and was admitted to the bar of the State of New York the same year. I have 23 years of experience in litigation and 13 years of experience in wage and hour litigation. I began my representation of workers with a non-profit agency that sought to educate and represent day laborers. I am admitted to the Eastern District of New York, the Southern District of New York, the Eastern District of Michigan, and the Second Circuit Court of Appeals.

12. I work almost exclusively in prosecuting wage and hour litigation in federal and state court. I speak Spanish fluently. I have litigated minimum wage, overtime, prevailing wage, spread of hours, and RICO claims in the Southern and Eastern Districts of New York.

13. I have been appointed as class counsel in wage and hour litigation in the Eastern and Southern Districts of New York, and in New York State Supreme Court including *Serrano v. Mamais Contracting Corp. and Trustees of Columbia University in the City of New York, et al.*, 12-cv-06374 (LTS)(S.D.N.Y. October 15, 2013)(ECF No. 64), *Mendez v. U.S. Nonwovens Corp.*, 314 F.R.D. 30, 35 (E.D.N.Y. 2016), *Santamaria v. Nature's Value, Inc. et al*, 15-cv-04535 (GRB)(E.D.N.Y. January 4, 2017)(ECF No. 38), *Guevara v. Sirob Imports, Inc.*, 15-cv-

⁴ The native Excel files are available upon request should the Court wish to examine them.


02895(SLT)(E.D.N.Y. February 7, 2020); *Connors v. American Medical Response*, 20-cv-05046 (KHP)(S.D.N.Y. April 21, 2021)(ECF No. 32), *Sanchez-Herrera v. Quadami, et al.*, Index No. 1507/2016 (Supreme Court, Nassau County 2017), and *De Los Santos v. New Food Corp.*, 14-cv-4541(AYS). I have been described as “an experienced FLSA attorney.” *Chavez v. White Post Wholesale Growers, Inc.*, 12-cv-1348 (E.D.N.Y. December 18, 7 2012)(Seybert, J.).

Basis for Paralegal Hourly Fee Request

14. I am a managing partner with the Moser Law Firm, P.C. Paralegals working for the Moser Law Firm, P.C. must have the following qualifications: they must be bilingual in English and Spanish, have a bachelor’s degree in political science, English, or law, or possess a paralegal certificate.

I declare under penalty of perjury, under 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: Huntington, New York
May 20, 2022



Steven John Moser, Esq. (SM1133)